THE HON'BLE SRI JUSTICE B. PRAKASH RAO

AND

THE HON'BLE SRI JUSTICE M. VENKATESWARA REDDY

WRIT PETITION No.15920 of 2004

30th April 2007

Between:

M/s Mahalaxmi Motors Ltd., (Jubilee Honda Motors),
Represented by its Managing Director Mahendra C. Mehta.

.. Petitioner.

And

1. The Mandal Revenue Officer, Tirmulgherry Mandal, Tirmulgherry, Hyderabad.
2. The Secretary to Govt. of A.P. Revenue Department (Assignment-III), Secretariat, Hyderabad.
3. The Commissioner of Land Revenue, Govt. of Andhra Pradesh, Nampally Station Road, Hyderabad.
4. The District Collector, Hyderabad District, Govt. of A.P., Nampally Station Road, Hyderabad.

.. Respondents.

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ORDER: (Per Hon'ble Sri Justice B. Prakash Rao)

The petitioner herein, who has been held to be a land grabber in the proceedings initiated by the respondents herein before the Special Court under the A.P. Land Grabbing (Prohibition) Act 1982, filed this Writ Petition, *inter alia,* seeking a writ of mandamus assailing the orders passed in L.G.C.NO.7 of 2000, dated 11.08.2004 on the file of the Special Court under A.P. Land Grabbing (Prohibition) Act 1982 (for brevity the 'Act') allowing the application filed under Section 8(1) of the Act seeking to declare the petitioner as a land grabber and evict him from the schedule property and also award compensation and consequently punish the petitioner for the offence of land grabbing.

Heard Sri T. Sudhakara Reddy, learned counsel appearing for the petitioner and the learned Government Pleader for Revenue appearing on behalf of the respondents.

In the application filed before the Special Court, the case of the respondents which have approached through its Mandal Revenue Officer is that the petitioner has grabbed the land illegally to an extent of 7,254 sq. mtrs. In Sy.Nos.82, 157/1 of Bowenpally and Thokatta villages respectively and later the extent is amended as 7,788 sq. mtrs in pursuance of the orders in I.A.No.94 of 2003, dated 13.06.2003 of

Trimuklgherry Mandal, Hyderabad District.

Briefly the case of the respondents is the said application was that the entire land to an extent of Acs. 53.07 gts., in Sy.No.82 of Bowenpally village, Trimulgherry Mandal, Hyderabad District and of an extent of Acs.65.23 gts., in Sy.No.157/1 pf Thokatta village, Trimulgherry Mandal is a Government land, however, the petitioner has encroached to an extent of 6946 sq. mtrs of land in Sy.NO.82 of Bowenpally village and 842 sq. mtrs. In Sy.NO.157/1 of Thokatta village in the year 1986. Both these lands which ultimately comes to an extent of 7788 sq. mtrs which are adjacent to each other where the petitioner has set up mechanical workshop purpose. It was the further case that one B. Ramender Reddy and several others filed writ Petitions in W.P.Nos.8734 of 1983 to 8737 of 1983, 1513 of 1984, 15328 of 1984, 7383 of 1985 and 13169 of 1985 alleging that the entire extent of Acs.191.24 gts., of land in Sy.Nos.76 to 83 of Bowenpally village called 'Hassan Mohammed Kancha' and the same was granted as an Inam to him and they are the registered occupants of the land to an extent of Acs.73.15 gts., and an extent of Acs.100 was acquired by the Government for Armed Forces Co-operative Society and another extent of Acs.1.20 gts., was acquired by the A.P. State Electyricity Board and there is a tank in an extent of Acs.13.03 gts., however, their application seeking for occupancy certificate was

rejected by the Collector and thus the writ petitions were filed by the heirs of the said Hassan Mohammed and ultimately all these writ petitions were dismissed and the same were confirmed in writ appeals and also by the Supreme Court. The petitioner has been given a notice by the Mandal Revenue Officer, Secunderabad on 27.04.1987 under Land Encroachment Act . Once again questioning the same, the petitioner filed a writ petition in W.P.No.5954 of 1987 claiming that they have purchased the land in question to an extent of Acs.1.50 cents in Sy.No.82 from one B. Ramender Reddy on 03.01.1985 and 05.01.1985. The Writ Petition was filed jointly along with the petitioner's vendor. However, admittedly the said Writ Petition was dismissed mainly on the ground that there being no such occupancy certificate as claimed in their favour, they cannot seek any relief. On the survey made by the M.R.O., it was found that the petitioner has illegally encroached the aforesaid area. Hence, the application.

Contesting the claim of the petitioner before the Special Court was that of total denial and contended that the petitioner was a bona fide purchaser of the property having purchased the same under two registered sale deeds dated 03.01.1985 and 05.01.1985 and after purchase, the petitioner invested more than two crores of rupees and erected a showroom, workshop and a go-down at Bowenpally with the

permission of all the necessary authorities. Therefore, it cannot be said that the petitioners have grabbed the land. There is no dispute in regard to filing of the earlier writ petitions by the petitioner and also the others, however, it was claimed that there has been a proceeding by the Collector Hyderabad to the Commissioner of Land Revenue recommending for regularizing of the land already under occupation of the petitioner. However, the Government did not accept the said proposals and rejected the same as per the orders dated 06.12.1999. Challenging the same, the petitioner herein has filed a writ petition in W.P.No.15 of 2000 which was disposed of directing the Government to reconsider his case for regularization on payment of market price. Therefore, the case of the petitioner was that they are not land grabbers but bona fide occupiers. Hence, the application is not maintainable.

With these and other allegations in detail from the respective pleadings, the Special Court framed the issues to the following effect:

1. Whether the applicant has title to the application schedule land ?
2. Whether the rival title set up by the respondent is true, valid and binding ?
3. Whether the respondent is a land grabber within the meaning of Act XII of 1982 ?
4. In the event of success, whether the applicant is entitled to the compensation as claimed ?
5. Whether any direction can be given by this Court for regularization in terms of G.O.Ms.No.508 and 972 ?
6. To what relief ?

The parties went into trial where on behalf of the respondent herein, P.W.1 was examined, who is the Mandal Revenue Officer and marked Exs.A.1 to A.5 whereas on behalf of the petitioner herein, R.W.1 was examined and Exs.B.1 to B.11 were marked.

On a consideration of the aforesaid evidence and the material on record, the Special Court found that having regard to those aforesaid chequered events, which are quite clear that the land in question i.e., schedule land is a government land. There is no justification for the claim set up by the petitioner and they are the land grabbers and ultimately allowed the application. Hence, the Writ Petition.

Having heard the counsel on either side and on perusal of the material available on record, the only question that arises for consideration is as to whether on the facts and circumstances, the petitioner is the land grabber as contended by the respondent in their application before the Special Court ?

As already stated above and as admitted by the petitioner itself, there is no dispute in regard to all the aforesaid chequered events which led to filing of the present proceedings. No-doubt, the claim of the petitioner is based upon the registered sale deeds dated

03.01.1985 and 05.01.1985 which have been marked as Exs.B.1 and B.2 through its witness R.W.1. It is the claim of the petitioner in these proceedings that they have been in possession long time and they have invested substantial and huge amounts and running the business and therefore, they are the bona fide purchasers for value and in occupation in their own right, title and interest and there is no grabbing on their part and the respondent cannot invoke the provisions of the Act. However, staring facts in the present case are that the respondent herein has claimed that the entire property is a government land and it belongs to it and the petitioner has grabbed the same under false claim. The fact that there has been earlier two more rounds litigation to this Court is not denied earlier in respect of the very same and a batch of Writ Petitions were filed which have been referred to above and the petitioner is claiming that they are the occupants of the land and entitled for occupancy rights. Further, all these writ petitions were dismissed and even the Writ Appeals filed against the said orders were rejected and those orders were confirmed again by the Supreme Court by rejecting the SLPs filed by them. In the second round as against the issuance of notice by; the first respondent herein under the Land Encroachment Act dated 27.04.1987, the petitioner along with its own vendor had filed a Writ Petition unsuccessfully assailed the said proceedings in W.P.No.5954 of 1989. That apart

even in regard to the proceedings which have been initiated apparently at the instance of the petitioner seeking for regularization of their possession on the recommendation made by the Collector, Hyderabad to the Commissioner of Land Revenue but the Government rejected the same which led to filing of the Writ Petition by the petitioner in W.P.No.15 of 2000 which was disposed of by this Court as per the orders dated 30.07.2001. These are the facts which directly stare at the petitioner to deny the title of the Government. In fact, all these acts on the part of the petitioner would show amply that it amounts to a clear admission as to the title of the Government. Therefore, it is too late on the part of the petitioner to re-assail from such possession and claimed that the Government is not the title holder whereas the claim made by the petitioner in pursuance of the aforesaid sale deeds also false to ground especially the very proceedings shall have been initiated by the petitioner seeking to regularize the sales made in their favour. In view of the same, it only follows that the petitioner has totally failed to establish their independent title or interest or justification for holding the land in their occupation. Therefore, the Special Court has rightly found as that on fact even according to the petitioners themselves the land in question is a government land and thus their occupation squarely amounts to

land grabbing and thus rightly the Special Court has allowed the application. In view of such finding of fact as arrived at by the Court below which are perfectly based not only on the aforesaid chequered events but also the well supported reasons, this Court would not venture to interdict with the same in exercise of powers conferred under Article 226 of the Constitution of India. Hence, there are no merits in the above Writ Petition.

The Writ Petition is dismissed. No costs.

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B. PRAKASH RAO, J

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M. VENKATESWARA REDDY, J

30th April 2007.
Chvn.